

STATE OF INDIANA            )  
                                      ) SS:  
COUNTY OF DELAWARE )

IN THE DELAWARE CIRCUIT COURT

CAUSE NO. 18C03-2006-PL-19

STATE OF INDIANA,                                 )  
  )  
                          Plaintiff,                         )  
  )  
  )  
                          v.   )  
  )  
HENRY STARRETT, individually                     )  
and doing business as                                 )  
STARRETT'S HOME IMPROVEMENTS                 )  
  )  
                          Defendant.                         )

FILED  
CLERKS OFFICE  
DELAWARE CO. INDIANA

JUN 01 2006

Karen D. Wenger  
CLERK

**COMPLAINT FOR INJUNCTION, RESTITUTION, COSTS, AND CIVIL PENALTIES**

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Matt Light, petitions the Court pursuant to the Indiana Home Improvement Contracts Act, Indiana Code § 24-5-11-1 *et seq.* and the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*, for injunctive relief, restitution, civil penalties, investigative costs, and other relief.

**PARTIES**

1. The Plaintiff, State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5-0.5-4(c) and Ind. Code § 24-5-11-14.

2. The Defendant, Henry Starrett, individually and doing business as Starrett's Home Improvements, at all times relevant to this complaint, was an individual engaged in

business as a home improvement contractor in Delaware County, located at 14 Forest Drive, Muncie, Indiana 47303 or at 5001 North Hickory Road, Muncie, Indiana 47303.

### FACTS

3. At least since May 23, 2005, the Defendant has entered into home improvement contracts with Indiana consumers.

4. On or about May 23, 2005, the Defendant entered into a contract with Curtis Dennin, of Muncie, Indiana, wherein the Defendant represented he would replace the roof on Curtis Dennin's home for Four Thousand Five Hundred Dollars (\$4,500.00). A true and correct copy of Defendant's May 23, 2005 contract with Curtis Dennin is attached and incorporated by reference as Exhibit "A."

5. Curtis Dennin and the Defendant negotiated and signed the contract referred to in paragraph four (4) at Curtis Dennin's place of employment. During the negotiation of the contract, the Defendant represented that Curtis Dennin would have to pay approximately one half (1/2) of the contract price at the time the project materials were delivered to Curtis Dennin's house so that the Defendant could pay for the materials necessary to complete the job.

6. The Defendant failed to include the following information in the May 23, 2005 contract with Curtis Dennin.

- a. the name and telephone number of any agent to whom consumer problems and inquiries can be directed, as required by Ind. Code § 24-5-11-10(a)(2);
- b. legibly printed or typed versions of the supplier's name, the supplier's agent's name, or the consumer's name, placed directly after or before the signature lines, as required by Ind. Code § 24-5-11-10(a)(9); and

- c. the full address of the residential property that is the subject of the home improvement, as required by Ind. Code § 24-5-11-10(a)(1).

7. On or about May 24, 2005, Defendant's workers came to Curtis Dennin's home to begin work, and the project materials ordered by Defendant were delivered to the site by a third party supplier, Tri-C Supply Corporation.

8. At the time the project materials were delivered to Curtis Dennin's home, the Defendant requested payment of approximately one half (1/2) of the contract price. Defendant repeated to Curtis Dennin that this partial payment was required so that Defendant could pay for the project materials.

9. On or about May 24, 2005, Curtis Dennin wrote a check to Defendant in the amount of Two Thousand Three Hundred Dollars (\$2,300.00).

10. On or about May 27, 2005, Defendant and his workers completed the roof and Curtis Dennin paid Defendant the remaining balance of One Thousand Seven Hundred Dollars (\$1,700.00).

11. On or about May 27, 2005, Defendant wrote a check to Tri-C Supply Corporation in the amount of Two Thousand Thirty-Six Dollars and Thirty-Six Cents (\$2,036.36) to pay for materials needed to replace Curtis Dennin's roof.

12. On or about June 1, 2005, Defendant entered into a contract with Curtis Dennin, wherein the Defendant represented he would replace the roof on Lewis Dennin's home for Four Thousand Five Hundred Dollars (\$4,500.00). A true and correct copy of Defendant's June 1, 2005 contract with Curtis Dennin is attached and incorporated by reference as Exhibit "B."

13. Curtis Dennin and the Defendant negotiated and signed the contract referred to in paragraph twelve (12) at Lewis Dennin's residence, in the presence of Lewis Dennin. During the

negotiation of the contract, the Defendant represented that Curtis Dennin would have to pay approximately one half (1/2) of the contract price at the time the project materials were delivered to Lewis Dennin's house so that the Defendant could pay for the materials necessary to complete the job.

14. The Defendant failed to include the following information in the June 1, 2005 contract with Curtis Dennin:

- a. the name and telephone number of any agent to whom consumer problems and inquiries can be directed, as required by Ind. Code § 24-5-11-10(a)(2); and
- b. legibly printed or typed versions of the supplier's name, the supplier's agent's name, or the consumer's name, placed directly after or before the signature lines as required by Ind. Code § 24-5-11-10(a)(9).

15. On or about June 1, 2005, Defendant's workers came to Lewis Dennin's home to begin work, and the project materials ordered by Defendant were delivered to the site by a third party supplier, Tri-C Supply Corporation.

16. On or about June 1, 2005, Curtis Dennin wrote a check to Defendant in the amount of Two Thousand Two Hundred Fifty Dollars (\$2,250.00).

17. On or about June 1, 2005, Defendant wrote a check to Tri-C Supply Corporation in the amount of One Thousand Three Hundred Sixty-Nine Dollars and Nine Cents (\$1,369.09) to pay for materials needed to replace Lewis Dennin's roof.

18. On or about June 4, 2005, Defendant and his workers completed work on Lewis Dennin's roof, and Curtis Dennin paid Defendant the balance of Two Thousand Two Hundred Fifty Dollars (\$2,250.00).

19. The checks Defendant had written to Tri-C Supply Corporation for the supplies for each roof were returned for non-sufficient funds.

20. On or about July 29, 2005, Tri-C Supply Corporation filed a mechanic's lien on Curtis Dennin's home for One Thousand Nine Hundred Eighty-Two Dollars and Ten Cents (\$1,982.10), and on Lewis Dennin's home for One Thousand Three Hundred Sixty-Nine Dollars and Nine Cents (\$1,369.09).

21. The Defendant failed to obtain the necessary license required by the Delaware County Building Commissioner for a home improvement contractor prior to entering into the contracts referred to in paragraphs four (4) and twelve (12), above.

22. The Defendant failed to obtain the necessary permits required by the City of Muncie for roof work that involves replacing the wood before performing work under the contracts referred to in paragraphs four (4) and twelve (12), above.

23. In late March 2006, Curtis Dennin paid off the liens on both homes in order to avoid further legal action by Tri-C Supply Corporation

24. Pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendant is presumed to have represented at the time of contract formation that he would complete the jobs, including paying subcontractors, within a reasonable period of time.

25. The Defendant has yet to reimburse Curtis Dennin and Lewis Dennin for the amounts they paid to lift the mechanic's liens referred to in paragraph twenty (20) from their properties.

COUNT I: VIOLATIONS OF THE HOME IMPROVEMENT CONTRACTS ACT

26. The services described in paragraphs four (4) and twelve (12) are “home improvements” as defined by Ind. Code § 24-5-11-3.

27. The agreements described in paragraphs four (4) and twelve (12) are “home improvement contracts” as defined by Ind. Code § 24-5-11-4.

28. The Defendant is a “home improvement supplier” as defined by Ind. Code § 24-5-11-6.

29. By failing to provide completed, written home improvement contracts to Curtis Dennin, Defendant violated the Home Improvement Contracts Act, Ind. Code § 24-5-11-10.

#### COUNT II: VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

30. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs one (1) through twenty-nine (29) above.

31. The transactions referred to in paragraphs four (4) and twelve (12) are “consumer transactions” as defined by Ind. Code § 24-5-0.5-2(a)(1).

32. The Defendant is a “supplier” as defined by Ind. Code § 24-5-0.5-2(a)(3).

33. The violations of the Indiana Home Improvement Contracts Act referred to in paragraph twenty-nine (29) constitute deceptive acts pursuant to Ind. Code § 24-5-11-14.

34. The Defendant’s representations to Curtis Dennin that Dennin’s payments at the time materials were delivered would be used to pay for the materials, when he knew or reasonably should have known they would not, violated the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(1).

35. The Defendant’s representations to Curtis Dennin that the consumer transactions would be completed within a reasonable time, according to the course of dealing or the usage of

trade, when he knew or should reasonably have known that they would not be so completed, are violations of Ind. Code §24-5-0.5-3(a)(10).

36. By soliciting Curtis Dennin to engage in consumer transactions without a license required by law, the Defendant violated Ind. Code § 24-5-0.5-10(a)(1)(A).

37. By engaging in consumer transactions without a permit required by law, the Defendant violated Ind. Code § 24-5-0.5-10(a)(1)(C).

COUNT III: KNOWING AND INTENTIONAL VIOLATIONS OF THE DECEPTIVE  
CONSUMER SALES ACT

38. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs one (1) through thirty-seven (37) above.

39. The misrepresentations and deceptive acts set forth above were committed by the Defendant with knowledge and intent to deceive.

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendant, enjoining the Defendant from the following:

- a. In the course of entering into home improvement transactions, failing to provide a completed home improvement contract, including each of the provisions required by Ind. Code § 24-5-11-10(a), to the consumer before it is signed by the consumer;
- b. representing expressly or by implication that the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or

benefits it does not have which the Defendant knows or reasonably should know it does not have;

- c. representing expressly or by implication that the Defendant is able to start or complete a home improvement or consumer transaction within a stated period of time, or when no time period is stated, within a reasonable time, when the Defendant knows or should reasonably know that he cannot;
- d. soliciting to engage in a consumer transaction without a permit or other license required by law;
- e. engaging in a consumer transaction without a permit required by law.

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendant for the following relief:

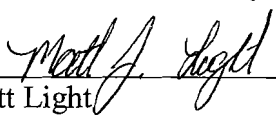
- a. costs pursuant to Ind. Code § 24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;
- b. on Count III of the Plaintiff's complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Thousand Dollars (\$5,000.00) per violation, payable to the State of Indiana;
- c. on Count III of the Plaintiff's complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana;



- d. restitution on behalf of Curtis Dennin and Lewis Dennin in the amount Three Thousand Three Hundred Fifty-One Dollars and Nineteen Cents (\$3351.19), pursuant to Ind. Code § 24-5-0.5-4(c), and;
- e. all other just and proper relief.

Respectfully submitted,

STEVE CARTER  
INDIANA ATTORNEY GENERAL  
Attorney no. 4150-64

By:   
Matt Light  
Deputy Attorney General  
Attorney No. 25680-53

Office of the Attorney General  
Indiana Government Center South, 5th floor  
302 West Washington Street  
Indianapolis, IN 46204  
(317) 232-4774

# Proposal

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of \_\_\_\_\_

Pages \_\_\_\_\_



## HENRY STARRETT HOME IMPROVEMENTS

Quality Workmanship at Competitive Prices

14 Forest Dr.  
MUNCIE, IN 47303  
(765) 215-5509

PROPOSAL SUBMITTED TO <i>Art Denning</i>		PHONE	DATE <i>6/1/05</i>
STREET		JOB NAME	
		JOB LOCATION	
ARCHITECT	DATE OF PLANS	JOB PHONE	

We hereby submit specifications and estimates for:

Tear off and dispose of all old roofing.  
Replace with a 30 year dimensional shingle.  
Color to be chosen by homeowner.  
New 15 lb. felt, drip edge, pipe collars, and vents.  
~~\_\_\_\_\_~~

All bad wood to be replaced on a time and material basis at \$30 per sheet or \$3.50 a board foot.

3 year labor warranty.

Thank you!!

**We Propose** hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

*Four thousand five hundred and 00* dollars (\$ *4500<sup>00</sup>* ).

Payment to be made as follows:

*Half down; balance upon completion*

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized Signature

*Henry Starrett*Note: This proposal may be withdrawn by us if not accepted within *30* days.

**Acceptance of Proposal** — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: \_\_\_\_\_

Signature

*Art Denning*

Signature \_\_\_\_\_

Blumberg No. 2136

STATE'S  
EXHIBIT  
*B*

DUE TO MISUNDERSTANDING ON FELT,  
CONTRACT IS RENEGOCIATED TO \$4000  
TOTAL. ALSO LABOR WARRANTY IS  
EXTENDED TO 10 YEARS.

X Very Art

X Ant Dennis

# Proposal

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of

Pages



## HENRY STARRETT HOME IMPROVEMENTS

Quality Workmanship at Competitive Prices

14 Forest Dr.

MUNCIE, IN 47303

(765) 215-5509

PROPOSAL SUBMITTED TO

Art Demming

PHONE

DATE

5/23/05

JOB NAME

JOB LOCATION

ARCHITECT

DATE OF PLANS

JOB PHONE

We hereby submit specifications and estimates for:

Tear off and dispose of all old roofing.  
Replace with a 30 year dimensional shingle.  
Color to be chosen by homeowner.  
New 15 lb felt, drip edge, pipe collars, and vents.  
Flash and counter flash chimneys.

All bad wood to be replaced on a time and material basis at \$30 per sheet or \$3.50 a board foot.

3 year labor warranty

Thank You!

(Contract amended 5/25/05 SEE BACK)

We Propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

Four thousand five hundred and 00/100

dollars (\$ 4500<sup>00</sup> ).

Payment to be made as follows:

Half down; balance upon completion

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized Signature

Henry Starrett

Note: This proposal may be withdrawn by us if not accepted within

30

days.

**Acceptance of Proposal** — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance:

Signature

Art Demming

Signature

Blumberg No. 6728

STATE'S EXHIBIT

A 1062